

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

MATTHEW KELLY,

Plaintiff,

v.

CLINTON SINES, et al.,

Defendants.

Case No. 2:14-cv-00307

JUDGE GREGORY L. FROST

Magistrate Judge Norah McCann King

OPINION AND ORDER

Before the Court is the parties' agreed entry purporting to dismiss "certain causes of action" pursuant to Federal Rule of Civil Procedure 41. ("Agreed Entry," ECF No. 26.) A party cannot, however, use Rule 41 to dismiss less than the entirety of an action. *See Crozin v. Crown Appraisal Group, Inc.*, Nos. 2:10-cv-581, 2:10-cv-764, 2012 U.S. Dist. LEXIS 876, at *4-*5 (S.D. Ohio Jan. 4, 2012) (citing *Letherer v. Alger Group, L.L.C.*, 328 F.3d 262, 265-66 (6th Cir. 2003), recognized as overruled on other grounds in *Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633, 636 (6th Cir. 2008)); *Coleman v. Ohio State Univ. Med. Ctr.*, No. 2:11-cv-49, 2011 U.S. Dist. LEXIS 83813, at *6 (S.D. Ohio Aug. 1, 2011).

Rule 15(a) permits a party to amend its pleadings by leave of court, which "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a)(2). Recognizing that filings are to be construed by their substantive content and not by their labels, the Court construes the Agreed Entry as a motion to amend Plaintiff's Complaint under Rule 15. The Court **GRANTS** the

motion. Plaintiff's complaint is hereby amended to drop Count Four from this action.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE